

EXHIBIT B

From: [Freymann, Anna J.](#)
To: [#Microsoft.NYClassAction.FDBR](#); ["nyclassactions_microsoft_ohs@orrick.com"](#)
Cc: [Alter-AI-TT@simplelists.susmangodfrey.com](#)
Subject: [EXT] AG v. OAI - Plaintiffs' request to Microsoft for additional search terms & custodians
Date: Friday, February 21, 2025 2:39:47 PM
Attachments: [MSFT AICPY 000591635.pdf](#)

This Message originated outside your organization.

Counsel:

Following up on my email from Wednesday (below), please see attached a document that provides further context for our data inspection request.

Moreover, as to your statement that you would not produce any documents relating to GitHub (see no. 7 in my email below), please provide a basis for this limitation.

Thank you.

**Lieff
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From: Freymann, Anna J.
Sent: Wednesday, February 19, 2025 5:07 PM
To: [#Microsoft.NYClassAction.FDBR](#) <MicrosoftNYClassActionFDBR@faegredrinker.com>;
'nyclassactions_microsoft_ohs@orrick.com' <nyclassactions_microsoft_ohs@orrick.com>
Cc: [Alter-AI-TT@simplelists.susmangodfrey.com](#)
Subject: [EXT] AG v. OAI - Plaintiffs' request to Microsoft for additional search terms & custodians

Counsel,

Thank you for the conferral yesterday.

Please find below a summary of our discussion and follow-up items:

1. **Custodians**: You stated that Microsoft was investigating and would propose the appropriate custodians in response to RFP No. 46. We are amenable to that plan but ask that you accept our proposed custodians or provide a counterproposal by the end of next week.
2. **Search terms**: We agreed that you would run a hit report on our updated terms, as set forth in my email below.
3. **Slack channels**: You will follow up following your call with OpenAI today regarding the status

of the collection of messages from Slack channels. You also agreed to find out whether the Slack channels were only used by Microsoft onsite employees and confirmed that you have produced documents sufficient to show all Microsoft employees that have worked onsite at OpenAI.

4. **RFP No. 42:** You confirmed that Microsoft was not excluding Copilot from its production and that the production was not limited to Bing Chat.
5. **RFP No. 78:** You made the same representation (as to Bing Chat and Copilot) with regard to RFP No. 78. With regard to the request that you produce all meeting minutes, notes, or other summaries from these meetings of the Governing Board, you stated that you would follow up regarding the scope of what is being produced.
6. **RFP No. 43:** Based on the concern set forth in the February 4 letter, you said that you would clarify your response to RFP No. 43.
7. **RFP Nos. 62, 63 and 65:** You confirmed that Microsoft was producing documents sufficient to show commercialization revenues received under the JDCA. As to the questions listed in the letter regarding RFP Nos. 62, 63 and 65, the following was discussed:
 - Microsoft will produce information in response to RFP Nos. 62 and 63 (gross revenues, net revenues, profits) and RFP No. 65 (predictions, forecasts, projections of profits, revenues, or cash flows) for Bing Chat, Copilot and Azure OpenAI Services. Microsoft will not produce documents for GitHub. You will confirm whether you will provide documents regarding Browse with Bing (which according to you is an OpenAI product).
 - Microsoft currently takes the position that only GPT-3 and GPT-3.5 are relevant and that it will not produce documents relating to any of the newer models (GPT-4 and subsequent versions). We pointed out that the newer versions also powered ChatGPT as identified in OpenAI's supplemental response to Interrogatory No. 11 (attached). You stated that you would take this under advisement and get back to us with Microsoft's final position on this point.
 - You clarified that Microsoft would only produce revenue information for products whose pricing is specifically tied to the product's GPT LLM capability. Accordingly, you will not produce documents showing revenue relating to products that include or use OpenAI's LLMs but do not have separate pricing for the LLM capability. We believe this an improper narrowing of our requests and your obligations. As stated before, pursuant to 17 U.S.C.A. § 504 (b), plaintiffs may disgorge "any profits of the infringer that are attributable to the infringement." Plaintiffs are seeking to discover profits that derive from the sale of products that use OpenAI's LLMs – regardless of whether users are paying specifically for the LLM capability of the product. Documents you produced clearly show that those products were part of Microsoft's commercialization and investment strategy. *See, e.g.,* MSFT_AICPY_000000972 (slide 2: "Infusion in Existing Microsoft Products"). To the extent the profits did not derive solely from the infringing activity, that is a question of apportionment. Moreover, at this stage, Plaintiffs do not have to establish a causal link between the sale of the products and infringement. *See, e.g., Prolo v. Blackmon*, 2022 WL 2189643, at *9 (C.D. Cal. Mar. 25, 2022).

Please provide Microsoft's final position on the production in response to RFP Nos. 62, 63 and 65 by the end of the week.

8. **Blocked data**: You said that you would review the relevant documents and follow up on this issue. Please provide a response by the end of this week.
9. **Copyright infringement announcement**: You said that you would review the relevant documents and follow up on this issue. Please provide a response by the end of this week.
10. **Microsoft/OpenAI 2024 negotiations and new agreement**: You expressed doubt that this material from 2024 was relevant to the case but stated that you would follow up to provide a final position.
11. **Microsoft Computing Power in Training OpenAI's LLMs**: We agreed that we would discuss subsequent steps after reviewing the hit count for the new search term "GPU".
12. **Supplemental response to ROG Nos. 4&5**: You agreed to supplemental ROG Nos. 4&5. Please give us a date certain by which you'll supplement these ROGs on licensing topics. On a related note, please also tell us when Microsoft will complete its production of the licensing agreements and negotiations that Microsoft agreed to produce in its 1/13/25 supplemental responses to Plaintiffs' Second Set of RFPs.

We will follow up as follows:

1. **Data inspection request**: We will identify representative documents to provide context for our data inspection request.
2. **Slack channels**: We will cross-check the names of onsite employees with the current list of custodians and provide specific names of employees we believe should be added as custodians, should they exist.

Items for future conferrals:

1. We will send a separate email with specific issues we would like to discuss with regard to the Third Set of RFPs.
2. We would also like to discuss the status of the production of due diligence material relating to Microsoft's investment in OpenAI since we still have not seen any such documents.

Thank you.

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From: Freymann, Anna J.

Sent: Tuesday, February 18, 2025 3:09 PM

To: 'Scheibel, Elizabeth M.C.' <elizabeth.scheibel@faegredrinker.com>

Cc: 'nycclassactions_microsoft_ohs@orrick.com' <nycclassactions_microsoft_ohs@orrick.com>;

#Microsoft.NYClassAction.FDBR <MicrosoftNYClassActionFDBR@faegredrinker.com>; Alter-Al-TT@simplelists.susmangodfrey.com

Subject: RE: [EXT] AG v. OAI - Plaintiffs' request to Microsoft for additional search terms & custodians

Liz,

Thank you for your email.

Your counterproposals look fine.

As to the terms you rejected, we propose adding "NEAR(10)" to each query as follows:

1. ("OpenAI" OR "OAI") AND NEAR(10) Reddit
2. (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND NEAR(10) agent*
3. (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND NEAR(10) authori*
4. (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND NEAR(10) control*
5. (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND NEAR(10) direct*
6. (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND NEAR(10) GPU*
7. (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND NEAR(10) manag*
8. (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND NEAR(10) overs*
9. (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND NEAR(10) partner*

We can discuss this further on our call at 4:30 pm ET.

Best regards,

Anna

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From: Scheibel, Elizabeth M.C. <elizabeth.scheibel@faegredrinker.com>

Sent: Saturday, February 15, 2025 9:13 AM

To: Freymann, Anna J. <afreymann@lchb.com>; Alter-AI-TT@simplelists.susmangodfrey.com

Cc: 'nyclassactions_microsoft_ohs@orrick.com' <nyclassactions_microsoft_ohs@orrick.com>;

#Microsoft.NYClassAction.FDBR <MicrosoftNYClassActionFDBR@faegredrinker.com>

Subject: [EXT] AG v. OAI - Plaintiffs' request to Microsoft for additional search terms & custodians

Anna and Counsel-

Updated the subject line here to reflect the contents of this thread.

Attached is the hit report for Plaintiffs' request for additional search terms, including responses to each term and counterproposals for certain terms. Please let us know if the counterproposals are accepted and we will begin running them. The de-duplicated total hit

count for Plaintiffs' requested terms, for parent-level emails, is 164,784. As a reminder, de-duplicated totals do not include non-email custodial documents (i.e., documents in a custodian's individual OneDrive), though the email has so far accounted for the majority of each custodians' documents by far, so the actual number of unique documents is somewhat higher than that total. Once family members are taken into account, Plaintiffs' requested search terms would likely generate more than 260,000 new documents to collect and review.

On Plaintiffs' request to add Matt Dahlin and Geraldine Russell as custodians: Your letter identifies "licensing discussions with HarperCollins (and potentially other publishers)" and "the issue of whether a market exists for LLM training data licenses (i.e., fair use)" as the basis for the relevance of these custodians, but you did not identify which RFP(s) their documents would be responsive to. We believe Microsoft's January 13, 2025 supplemental response to Plaintiffs' RFP No. 46 is the right framework here.

Microsoft is investigating the appropriate custodians for the documents Microsoft agreed to produce in response to RFP No. 46. Microsoft will search for and collect those custodians' documents for the relevant negotiations. To the extent such documents were already collected and not produced to Plaintiffs, Microsoft will additionally identify and produce them. The appropriate custodian as to each executed agreement may or may not be the individuals Plaintiffs request as custodians. Accordingly, Microsoft proposes that Plaintiffs withdraw this request for the time being and can revisit it at a later date, once Microsoft has been able to collect and produce the documents requested by RFP No. 46.

Thank you,
Liz

Elizabeth M.C. Scheibel

Associate

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From: Freymann, Anna J. <afreymann@lchb.com>

Sent: Friday, February 7, 2025 2:46 PM

To: Scheibel, Elizabeth M.C. <elizabeth.scheibel@faegredrinker.com>;

#Microsoft.NYClassAction.FDBR <MicrosoftNYClassActionFDBR@faegredrinker.com>;

'nyclassactions_microsoft_ohs@orrick.com' <nyclassactions_microsoft_ohs@orrick.com>

Cc: Alter-AI-TT@simplelists.susmangodfrey.com

Subject: RE: [EXT] RE: AG v. OAI - Discovery Status Letter - Request for M&C

This Message originated outside your organization.

Hi Liz,

Thank you. I am confirming that you do not need to run the term "BooksCorpus1".

Best,
Anna

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From: Scheibel, Elizabeth M.C. <elizabeth.scheibel@faegredrinker.com>
Sent: Friday, February 7, 2025 2:45 PM
To: Freymann, Anna J. <afreymann@lchb.com>; #Microsoft.NYClassAction.FDBR <MicrosoftNYClassActionFDBR@faegredrinker.com>; 'nyclassactions_microsoft_ohs@orrick.com' <nyclassactions_microsoft_ohs@orrick.com>
Cc: Alter-AI-TT@simplelists.susmangodfrey.com
Subject: RE: [EXT] RE: AG v. OAI - Discovery Status Letter - Request for M&C

Hi Anna-

Microsoft previously agreed to Plaintiffs' proposed term bookscorp*. This would encompass BooksCorpus1, so it is not necessary to run that term. Please confirm, thanks!
Liz

From: Freymann, Anna J. <afreymann@lchb.com>
Sent: Thursday, February 6, 2025 9:58 PM
To: Scheibel, Elizabeth M.C. <elizabeth.scheibel@faegredrinker.com>; #Microsoft.NYClassAction.FDBR <MicrosoftNYClassActionFDBR@faegredrinker.com>; 'nyclassactions_microsoft_ohs@orrick.com' <nyclassactions_microsoft_ohs@orrick.com>
Cc: Alter-AI-TT@simplelists.susmangodfrey.com
Subject: RE: [EXT] RE: AG v. OAI - Discovery Status Letter - Request for M&C

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Hi Liz,

Thank you for your email.

We slightly revised the search terms. Please see below:

- (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND "comput* power"
- (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND GPU*
- (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND "process* power"
- (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND overs*
- (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND control*
- (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND direct*
- (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND authori*
- (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND partner*
- (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND agent*
- (OAI OR OpenAI OR "Open AI" OR GPT* OR ChatGPT*) AND manag*
- BooksCorpus1
- eLibra OR e-Libra OR elib OR eLibrary
- "anna's archive" OR anna'sarchive OR annasarchive OR "annas archive"
- "internet archive" OR internetarchive
- "open library" OR "openlibrary" OR "openlib"
- ("OpenAI" OR "OAI") AND Reddit
- DuXiu

Please proceed with these search terms.

Thank you,
Anna

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From: Scheibel, Elizabeth M.C. <elizabeth.scheibel@faegredrinker.com>
Sent: Thursday, February 6, 2025 10:51 AM
To: Freymann, Anna J. <afreymann@lchb.com>; #Microsoft.NYClassAction.FDBR
<MicrosoftNYClassActionFDBR@faegredrinker.com>; 'nyclassactions_microsoft_ohs@orrick.com'
<nyclassactions_microsoft_ohs@orrick.com>
Cc: Alter-AI-TT@simplelists.susmangodfrey.com
Subject: [EXT] RE: AG v. OAI - Discovery Status Letter - Request for M&C

Anna and counsel-

We'd begun to work on the hit report for Plaintiffs' requested additional search terms, but noticed some inconsistencies in how the strings are put together and are concerned the list may not run as you intended. Please review your list of terms and either confirm they are correct or send us a revised list. For example, the first term uses (computer power*) with no operator. I believe in most systems a space/no operator functions as an OR, though I would need to confirm whether that's the case for our searches. There are several other terms with words separated by a space instead of OR and without quotes to indicate phrases.

Please let us know how you'd like us to proceed. Thank you,
Liz

Elizabeth M.C. Scheibel

Associate

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From: Freymann, Anna J. <afreymann@lchb.com>

Sent: Tuesday, February 4, 2025 4:37 PM

To: #Microsoft.NYClassAction.FDBR <MicrosoftNYClassActionFDBR@faegredrinker.com>;
'nyclassactions_microsoft_ohs@orrick.com' <nyclassactions_microsoft_ohs@orrick.com>

Cc: Alter-AI-TT@simplelists.susmangodfrey.com

Subject: AG v. OAI - Discovery Status Letter - Request for M&C

This Message originated outside your organization.

Counsel:

Please see attached Plaintiffs' discovery status letter re. Microsoft's Supplemental Responses to Plaintiffs' Second Set of RFPs, and other discovery related issues.

Best regards,
Anna

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